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MONTANA LEGISLATIVE HISTORY

Chapter 245 ~~19~~ 2003

Bill H 368 S _____ Original bill & history ✓ C

H. Committee on Natural Resources			S. Committee on Natural Resources		
Hearing Date(s)		C	Hearing Date(s)		C
	1/29	✓ C		3/14	✓ C
		C			C
		C			C
Date Out	2/11	✓ C		3/15	✓

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

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Montana Legislative Branch

Montana Legislature

Detailed Bill Information

2003 Session

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Bill Draft Number: LC0635 Current Bill Text
Bill Type - Number: HB 368 Fiscal Note
Short Title: Revise petroleum tank release compensation board laws
Primary Sponsor: Ronald Devlin

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 56

Print Friendly

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/08/2003			
(H) Signed by Governor	04/08/2003			
(H) Transmitted to Governor	03/31/2003			
(S) Signed by President	03/28/2003			
(H) Signed by Speaker	03/27/2003			
(H) Returned from Enrolling	03/27/2003			
(C) Sent to Printing	03/27/2003			
(H) Sent to Enrolling	03/25/2003			
(S) Returned to House	03/24/2003			
(S) 3rd Reading Concurred	03/24/2003	48	0	
(S) Scheduled for 3rd Reading	03/24/2003			
(S) 2nd Reading Concurred on Voice Vote	03/22/2003	46	0	
(S) Scheduled for 2nd Reading	03/22/2003			
(S) Scheduled for 2nd Reading	03/21/2003			
(S) Taken from 3rd Reading; Placed on 2nd Reading	03/19/2003	50	0	
(S) Scheduled for 3rd Reading	03/19/2003			
(S) 2nd Reading Concurred on Voice Vote	03/18/2003	50	0	
(S) Scheduled for 2nd Reading	03/18/2003			

(S) Committee Report--Bill Concurred	03/15/2003			(S) Natural Resources
(S) Committee Executive Action--Bill Concurred	03/15/2003	12	0	(S) Natural Resources
(S) Hearing	03/14/2003			(S) Natural Resources
(S) Referred to Committee	02/26/2003			(S) Natural Resources
(S) First Reading	02/26/2003			
(H) Transmitted to Senate	02/24/2003			
(H) 3rd Reading Passed	02/24/2003	93	6	
(H) Scheduled for 3rd Reading	02/24/2003			
(H) 2nd Reading Passed	02/22/2003	92	5	
(H) Scheduled for 2nd Reading	02/22/2003			
(C) Sent to Printing	02/12/2003			
(H) Committee Report--Bill Passed as Amended	02/12/2003			(H) Natural Resources
(H) Committee Executive Action--Bill Passed as Amended	02/11/2003	18	0	(H) Natural Resources
(H) Sponsor List Modified	01/30/2003			
(H) Hearing	01/29/2003			(H) Natural Resources
(H) Fiscal Note Printed	01/28/2003			
(H) Fiscal Note Received	01/28/2003			
(H) Hearing Canceled	01/22/2003			(H) Natural Resources
(C) Introduced Bill Text Available Electronically	01/20/2003			
(H) Referred to Committee	01/20/2003			(H) Natural Resources
(H) First Reading	01/20/2003			
(H) Fiscal Note Requested	01/20/2003			
(H) Introduced	01/20/2003			
(C) Draft Delivered to Requester	01/17/2003			
(C) Draft Ready for Delivery	01/14/2003			
(C) Draft in Assembly/Executive Director Review	01/13/2003			
(C) Draft in Final Drafter Review	01/13/2003			
(C) Bill Draft Text Available Electronically	01/13/2003			
(C) Draft in Input/Proofing	01/13/2003			
(C) Draft to Drafter - Edit Review [SAB]	01/11/2003			

(C) Draft in Edit	01/11/2003			
(C) Draft in Legal Review	01/10/2003			
(C) Draft to Requester for Review	01/09/2003			
(C) Draft Taken Off Hold	01/07/2003			
(C) Draft On Hold	12/16/2002			
(C) Draft to Requester for Review	12/10/2002			
(C) Fiscal Note Needed	11/04/2002			
(C) Draft Request Received	11/04/2002			

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Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Devlin	Ronald	
Drafter	Mitchell	Larry	
Primary Sponsor	Devlin	Ronald	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Environmental Protection		Simple	ENVP
State Government		Simple	STGO
Public Officers and Employees		Simple	POFF

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Additional Bill Information

Probable Fiscal Note: Yes
Preintroduction Required: N
Session Law Ch. Number: 245
DEADLINE
Category: General Bills

Transmittal Date: 02/28/2003
Return (with 2nd house amendments) Date: 04/05/2003

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-03	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

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2003 Montana Legislature

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HOUSE BILL NO. 368
INTRODUCED BY DEVLIN, BARRETT, A. OLSON, WANZENRIED, ANDERSON, MCCARTHY, TESTER

AN ACT EXTENDING THE 2-YEAR TIME LIMIT FOR SUBMITTING CLAIMS FOR REIMBURSEMENT FROM THE PETROLEUM TANK RELEASE CLEANUP FUND; MODIFYING THE ELIGIBILITY REQUIREMENTS; REVISING PROCEDURES FOR REIMBURSEMENT OF ELIGIBLE COSTS; PROVIDING FOR THIRD-PARTY REVIEW OF CLAIMS AND PLANS; REVISING THE AUTHORITY OF THE BOARD; AMENDING SECTIONS 75-11-307, 75-11-308, 75-11-309, 75-11-313, AND 75-11-318, MCA; AND PROVIDING AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-11-307, MCA, is amended to read:

"75-11-307. Reimbursement for expenses caused by a release. (1) Subject to the availability of money from the fund under subsection (5), an owner or operator who is eligible under 75-11-308 and who complies with 75-11-309 and any rules adopted to implement those sections must be reimbursed by the board from the fund for the following eligible costs caused by a release from a petroleum storage tank:

(a) corrective action costs as required by a department-approved corrective action plan, except that if the corrective action plan addresses releases of substances other than petroleum products from an eligible petroleum storage tank, the board may reimburse only the costs that would have reasonably been incurred if the only release at the site was the release of the petroleum or petroleum products from the eligible petroleum storage tank; and

(b) compensation paid to third parties for bodily injury or property damage. The board may not reimburse for property damage until the corrective action is completed.

(2) An owner or operator may not be reimbursed from the fund for the following expenses:

(a) corrective action costs or the costs of bodily injury or property damage paid to third parties that are determined by the board to be ineligible for reimbursement;

(b) costs for bodily injury and property damage, other than corrective action costs, incurred by the owner or operator;

(c) penalties or payments for damages incurred under actions by the department, board, or federal, state, local, or tribal agencies or other government entities involving judicial or administrative enforcement activities and related negotiations;

(d) attorney fees and legal costs of the owner, the operator, or a third party;

(e) costs for the repair or replacement of a tank or piping or costs of other materials, equipment, or labor related to the operation, repair, or replacement of a tank or piping;

(f) (i) expenses incurred before April 13, 1989, for owners or operators seeking reimbursement from the petroleum tank release cleanup fund; and

(ii) expenses incurred before May 15, 1991, for owners or operators seeking reimbursement from the petroleum tank release cleanup fund for a tank storing heating oil for consumptive use on the premises where it is stored or for a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes;

(g) expenses exceeding the maximum reimbursements provided for in subsection (4)~~; and~~

~~(h) expenses for work completed by or on behalf of the owner or operator more than 2 years prior to the owner's or operator's request for reimbursement. This limitation does not apply to claims for compensation paid to third parties for bodily injury or property damage~~; and

(h) expenses for work completed by or on behalf of the owner or operator more than 5 years prior to the owner's or operator's request for reimbursement. This limitation does not apply to claims for compensation paid to third parties for bodily injury or property damage. The running of the 5-year limitation period is suspended by an appeal of the board's denial of eligibility for reimbursement. If a written request for hearing is filed under 75-11-309, the suspension of the 5-year limitation period is effective from the date of the board's initial eligibility denial to the date on which the initial eligibility denial is overturned or reversed by the board, a district court, or the state supreme court, whichever occurs latest. The board may grant reasonable extensions of this limitation period if it is shown that the need for the extension is not due to the negligence of the owner or operator or agent of the owner or operator.

(3) An owner or operator may designate a person as an agent to receive the reimbursement if the owner or operator remains legally responsible for all costs and liabilities incurred as a result of the release.

(4) Subject to the availability of funds under subsection (5):

(a) for releases eligible for reimbursement from the petroleum tank release cleanup fund that are discovered

and reported on or after April 13, 1989, from a tank storing heating oil for consumptive use on the premises where it is stored or from a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes, the board shall reimburse an owner or operator for:

(i) 50% of the first $10,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of $495,000:

(A) for single-walled tank system releases; and

(B) for double-walled tank system releases for which the release date was prior to October 1, 1993; or

(ii) 100% of the eligible costs, up to a maximum total reimbursement of $500,000, for properly designed and installed double-walled tank system accidental releases that were discovered and reported on or after October 1, 1993; and

(b) for all other releases eligible for reimbursement from the petroleum tank release cleanup fund that are discovered and reported on or after April 13, 1989, the board shall reimburse an owner or operator for:

(i) 50% of the first $35,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of $982,500:

(A) for single-walled tank system releases; and

(B) for double-walled tank system releases for which the release date was prior to October 1, 1993; or

(ii) 100% of the eligible costs, up to a maximum total reimbursement of $1 million, for properly designed and installed double-walled tank system accidental releases that were discovered and reported on or after October 1, 1993.

(5) If the fund does not contain sufficient money to pay approved claims for eligible costs, a reimbursement may not be made and the fund and the board are not liable for making any reimbursement for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed subsequently in the order in which they were approved by the board."

Section 2. Section 75-11-308, MCA, is amended to read:

"75-11-308. Eligibility. (1) An owner or operator is eligible for reimbursement for the applicable percentage as provided in 75-11-307(4)(a) and (4)(b) of eligible costs caused by a release from a petroleum storage tank only if:

~~(a) the release was discovered on or after April 13, 1989;~~

(a) the release was discovered on or after April 13, 1989, and the release occurred from:

(i) an underground storage tank, as defined in 75-11-503, that was in compliance with 75-11-509 at the time that the release was discovered;

(ii) a petroleum storage tank, as defined in 75-11-302, that was in compliance with the applicable state and

federal laws and rules that the board determines pertain to the prevention and mitigation of a petroleum release from a petroleum storage tank at the time that the release was discovered; or

(iii) an underground storage tank, as defined in 75-11-503, that the property owner had no previous knowledge of if the tank was in compliance with the applicable state and federal laws and rules that the board determines pertain to the prevention and mitigation of a petroleum release at the time that the release was discovered;

~~(b) the department is notified of the release in the manner and within the time provided by law or rule;~~

~~(c) the department has been notified of the existence of the tank in the manner required by department rule or has waived the requirement for notification;~~

~~(d)~~(b) the release was an accidental release;

~~(e)~~(c) ~~with the exception of the release,~~ following the discovery of the release, ~~the operation and management of the tank complied~~ the underground storage tank from which the release occurred was removed or had a valid permit pursuant to 75-11-509 and the petroleum storage tank remained in compliance with applicable state and federal laws and rules that the board determines pertain to prevention and mitigation of petroleum releases ~~when the release was discovered and remained in compliance following discovery of the release~~; and

~~(f)~~(d) the owner or operator undertakes corrective action to respond to the release and the corrective action is undertaken, in accordance with a corrective action plan approved by the department, from the time of discovery until the release is resolved.

(2) An owner or operator is not eligible for reimbursement from the petroleum tank release cleanup fund for expenses caused by releases from the following petroleum storage tanks:

(a) a tank located at a refinery or a terminal of a refiner;

(b) a tank located at an oil and gas production facility;

(c) a tank that is or was previously under the ownership or control of a railroad, except for a tank that was operated by a lessee of a railroad in the course of nonrailroad operations;

(d) a tank belonging to the federal government;

(e) a tank owned or operated by a person who has been convicted of a substantial violation of state or federal law or rule that relates to the installation, operation, or management of petroleum storage tanks; or

(f) a mobile storage tank used to transport petroleum or petroleum products from one location to another.

(3) When, subsequent to the discovery of a release, an owner or operator fails to remain in compliance as required by subsection ~~(1)(e)~~ (1)(c) or fails to conduct corrective action as required by subsection ~~(1)(f)~~ (1)(d) and is issued a violation letter by the department, all reimbursement of claims submitted after the date of the violation letter must be suspended. Upon a determination by the department that all violations identified in the

violation letter have been corrected, all suspended and future claims may be reimbursed according to criteria established by the board. In determining the amount of reimbursement, if any, the board may consider the effect and duration of the noncompliance."

Section 3. Section 75-11-309, MCA, is amended to read:

"75-11-309. Procedures for reimbursement of eligible costs. (1) An owner or operator seeking reimbursement for eligible costs and the department shall comply with the following procedures:

(a) If an owner or operator discovers or is provided evidence that a release may have occurred from the owner's or operator's petroleum storage tank, the owner or operator shall immediately notify the department of the release and conduct an initial response to the release in accordance with state and federal laws and rules to protect the public health and safety and the environment.

(b) The owner or operator shall conduct a thorough investigation of the release, report the findings to the department, and, as determined necessary by the department, prepare and submit for approval by the department a corrective action plan that conforms with state, tribal (when applicable), and federal corrective action requirements.

(c) (i) The department shall review the corrective action plan and forward a copy to a local government office and, when applicable, a tribal government office with jurisdiction over a corrective action for the release. The local or tribal government office shall inform the department if it wants any modification of the proposed plan.

(ii) Based on its own review and comments received from a local government, tribal government, or other source, the department may approve the proposed corrective action plan, make or request the owner or operator to modify the proposed plan, or prepare its own plan for compliance by the owner or operator. A plan finally approved by the department through any process provided in this subsection (1)(c) is the approved corrective action plan.

(iii) After the department approves a corrective action plan, a local government or tribal government may not impose different corrective action requirements on the owner or operator.

(d) The department shall notify the owner or operator ~~and the board~~ of its approval of a corrective action plan and shall promptly submit a copy of the approved corrective action plan to the board.

(e) The owner or operator shall implement the approved plan. The department may oversee the implementation of the plan, require reports and monitoring from the owner or operator, undertake inspections, and otherwise exercise its authority concerning corrective action under Title 75, chapter 10, part 7, Title 75, chapter 11, part 5, and other applicable law and rules.

(f) (i) The owner or operator shall document in the manner required by the board all expenses incurred in preparing and implementing the corrective action plan. The owner or operator shall submit claims and

substantiating documents to the board in the form and manner required by the board.

(ii) The board shall review each claim and determine if the claims are actual, reasonable, and necessary costs of responding to the release and implementing the corrective action plan.

(iii) If the board requires additional information to determine if a claimed cost is actual, reasonable, and necessary, the board may request comment from the department and the owner or operator.

(iv) If the department determines that an owner or operator is failing to properly implement a corrective action plan, it shall notify the board. ~~The board shall forward each claim and appropriate documentation to the department. The department shall notify the board of any costs that the department considers not reimbursable because of any failure to meet the requirements of subsection (2). The department shall inform the owner or operator of any notification given to the board.~~

(g) The owner or operator shall document, in the manner required by the board, any payments to a third party for bodily injury or property damage caused by a release. The owner or operator shall submit claims and substantiating documents to the board in the form and manner required by the board.

(h) In addition to the documentation in subsections (1)(f) and (1)(g), when the release is claimed to have originated from a double-walled tank system, the owner or operator shall document, in the manner required by the board, the following:

(i) the date that the release was discovered;

(ii) that the originating tank was part of a double-walled tank system as defined in 75-11-302; and

(iii) that the double-walled tank system was properly installed and made of materials and constructed in accordance with applicable department regulations.

(2) The board shall review each claim received under subsections (1)(f) and (1)(g), make the determination required by this subsection, inform the owner or operator of its determination, and, as appropriate, reimburse the owner or operator from the fund. Before approving a reimbursement, the board shall affirmatively determine that:

(a) the expenses for which reimbursement is claimed:

(i) are eligible costs; and

(ii) were actually, necessarily, and reasonably incurred for the preparation or implementation of a corrective action plan approved by the department or for payments to a third party for bodily injury or property damage; and

(b) the owner or operator:

(i) is eligible for reimbursement under 75-11-308; and

(ii) has complied with this section and any rules adopted pursuant to this section.

(3) If an owner or operator disagrees with a board determination under subsection (2), the owner or operator

may submit a written request for a hearing before the board. The hearing must be held at a meeting of the board or as otherwise permitted under the Montana Administrative Procedure Act no later than 120 days following receipt of the request or at a time mutually agreed to by the board and the owner or operator.

(4) The board shall obligate money for reimbursement of eligible costs of owners and operators in the order that the costs are finally approved by the board.

(5) (a) The board may, at the request of an owner or operator, guarantee in writing the reimbursement of eligible costs that have been approved by the board but for which money is not currently available from the fund for reimbursement.

(b) The board may, at the request of an owner or operator, guarantee in writing reimbursement of eligible costs not yet approved by the board, including estimated costs not yet incurred. A guarantee for payment under this subsection (5)(b) does not affect the order in which money in the fund is obligated under subsection (4).

(c) When considering a request for a guarantee of payment, the board may require pertinent information or documentation from the owner or operator. The board may grant or deny, in whole or in part, any request for a guarantee."

Section 4. Review of corrective action plans and claims. (1) To ensure that the fund provided for in 75-11-313 is being utilized in the most efficient manner, the board may implement a program of third-party review for corrective action plans and claims. The board may submit a corrective action plan or claim for review by a qualified third party of the board's choosing.

(2) If a third-party review suggests that a corrective action plan is inappropriate for the release, the board may remand the plan to the department for further review.

(3) If a third-party review suggests that submitted costs do not comply with the requirements of 75-11-309(2)(a), the board may deny the costs, subject to 75-11-309(3).

Section 5. Section 75-11-313, MCA, is amended to read:

"75-11-313. Petroleum tank release cleanup fund. (1) There is a petroleum tank release cleanup fund in the state special revenue fund established in 17-2-102. The fund is administered as a revolving fund by the board and is statutorily appropriated, as provided in 17-7-502, for the purposes provided for under subsections ~~(3)(b)~~ (3)(c) and ~~(3)(c)~~ (3)(d). Administrative costs under ~~subsection~~ subsections (3)(a) and (3)(b) must be paid pursuant to a legislative appropriation.

(2) There is deposited in the fund:

(a) all revenue from the petroleum storage tank cleanup fee as provided in 75-11-314;

(b) money received by the board in the form of gifts, grants, reimbursements, or appropriations, from any

source, intended to be used for the purposes of this fund;

(c) money appropriated or advanced to the fund by the legislature;

(d) money loaned to the board by the board of investments; and

(e) all interest earned on money in the fund.

(3) ~~The~~ As provided in 75-11-318, the fund may be used only:

(a) to administer this part, including payment of board ~~and department~~ expenses associated with administration;

(b) to pay the actual and necessary department expenses associated with administration;

~~(b)~~(c) to reimburse owners and operators for eligible costs caused by a release from a petroleum storage tank and approved by the board; and

~~(c)~~(d) for repayment of any advance and any loan made pursuant to 17-6-225, plus interest earned on the advance or loan.

(4) Whenever the board accepts a loan from the board of investments pursuant to 17-6-225, the receipts from the fees provided for in 75-11-314 in each fiscal year until the loan is repaid are pledged and dedicated for the repayment of the loan in an amount sufficient to meet the repayment obligation for that fiscal year."

Section 6. Section 75-11-318, MCA, is amended to read:

"75-11-318. Powers and duties of board. (1) The board shall administer the petroleum tank release cleanup fund in accordance with the provisions of this part, including the payment of reimbursement to owners and operators. The board may hire its own staff to assist in the implementation of this part.

(2) The board shall determine whether to approve reimbursement of eligible costs under the provisions of 75-11-309(2), shall obligate money from the fund for approved costs, and shall act on requests for the guarantee of payments through the procedures and criteria provided in 75-11-309.

(3) The board may conduct meetings, hold hearings, undertake legal action, and conduct other business that may be necessary to administer its responsibilities under this part. The board shall meet at least quarterly for the purpose of reviewing and approving claims for reimbursement from the fund and conducting other business as necessary.

(4) ~~The department shall provide staff support to the board as the department determines it is able.~~ The board shall use the fund to pay for:

~~(a) for department staff used:~~

(a) department expenses incurred in providing assistance to the board. The board shall review and comment on all department administrative budget proposals that are assessed against the fund prior to submittal of the department budget for legislative approval. Department administrative expenses on behalf of the board may

include:

(i) ~~for~~ the review or preparation of corrective action plans;

(ii) ~~for~~ the oversight of corrective action undertaken by owners and operators for the purposes of this part; and

(iii) ~~for the review and processing of claims for reimbursement submitted by owners and operators under this part~~ the actual and necessary administrative support provided to the board.~~; and~~

(b) ~~for~~ department of transportation staff expenses used for the collection of the petroleum storage tank cleanup fee;

(c) third-party review of corrective action plans or claims pursuant to [section 4];

(d) board staff expenses; and

(e) expenses of implementing the board's duties as provided in this part.

(5) The board shall adopt rules to administer this part, including:

(a) rules governing submission of claims by owners or operators to the department and board;

(b) procedures for determining owners or operators who are eligible for reimbursement and determining the validity of claims;

(c) procedures for the review and approval of corrective action plans;

(d) procedures for conducting board meetings, hearings, and other business necessary for the implementation of this part;

(e) the criteria and reimbursement rates applicable to those owners and operators who comply with a violation letter issued by the department; and

(f) other rules necessary for the administration of this part.

(6) The board may apply for, accept, and repay loans from the board of investments pursuant to 17-6-225."

Section 7. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 75, chapter 11, part 3, and the provisions of Title 75, chapter 11, part 3, apply to [section 4].

Section 8. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 9. Applicability. [Section 1] applies to all claims for reimbursement of expenses on file with the department of environmental quality on [the effective date of this act].

- END -

Latest Version of HB 368 *(HB0368.ENR)*

Processed for the Web on March 27, 2003 (2:16pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the status of this bill for the bill's primary sponsor.

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This bill in WP 5.1 | All versions of all bills in WP 5.1

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MINUTES

MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN CINDY YOUNKIN**, on January 29, 2003 at 3:10 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Cindy Younkin, Chairman (R)
Rep. Gail Gutsche, Vice Chairman (D)
Rep. Jim Peterson, Vice Chairman (R)
Rep. Debby Barrett (R)
Rep. Larry Cyr (D)
Rep. Sue Dickenson (D)
Rep. Ron Erickson (D)
Rep. George Everett (R)
Rep. Kim Gillan (D)
Rep. Christopher Harris (D)
Rep. Carol Lambert (R)
Rep. Michael Lange (R)
Rep. Rick Maedje (R)
Rep. Bruce Malcolm (R)
Rep. Brad Newman (D)
Rep. John (Jack) W. Ross (R)
Rep. Scott Sales (R)
Rep. Veronica Small-Eastman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Kathleen Ely, Committee Secretary
Larry Mitchell, Legislative Branch

Please Note:

Video-taped Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A video-taped recording of the meeting is available from the Montana Historical Society.

Committee Business Summary:
Hearing & Date Posted: HB 368, 1/20/2003; HB 351, 1/21/2003; HB 328, 1/15/2003
Executive Action: None.

HEARING ON HB 368

Sponsor: REP. DEVLIN, HD 3, TERRY

Opening Statement by Sponsor:

3:11 p.m. **REP. DEVLIN**

Proponents' Testimony:

3:14 p.m. **Greg Cross, Montana Petroleum Release Board**

3:19 p.m. **Ronna Cristman, Montana Petroleum Marketers**

3:29 p.m. **Lee Brunner, Montana Petroleum Marketers**

3:31 p.m. **Earl Griffith, Tetra Tech Inc.**

Opponents' Testimony: None.

Informational Testimony:

3:35 p.m. **Tom Livers, Department of Environmental Quality**

Questions from Committee Members and Responses:

3:38 p.m. **REP. LAMBERT**

3:38 p.m. **Earl Griffith**

3:39 p.m. **REP. LAMBERT**

3:40 p.m. **Earl Griffith**

3:40 p.m. **REP. YOUNKIN**

3:41 p.m. **Tom Livers**

3:41 p.m. **REP. YOUNKIN**

3:42 p.m. **Tom Livers**

3:42 p.m. **REP. YOUNKIN**

3:43 p.m. **Sandi Olsen**

3:44 p.m. **REP. BARRETT**

3:44 p.m. **Sandi Olsen**

3:44 p.m. **REP. GUTSCHE**

3:45 p.m. **Lee Brunner**

3:45 p.m. **REP. GUTSCHE**

3:46 p.m. **Lee Brunner**

Closing by Sponsor:

3:47 p.m. **REP. DEVLIN**

HEARING ON HB 351

Sponsor: **REP. LANGE, HD 19, BILLINGS**

Opening Statement by Sponsor:

3:49 p.m. **REP. LANGE**

Proponents' Testimony:

4:03 p.m. **Al Littler, Billings Realtor**

4:09 p.m. **Clayton Fiscus, Billings Realtor**

4:12 p.m. **Roger Halver, Montana Association of Realtors**

Opponents' Testimony: None.

Questions from Committee Members and Responses:

4:13 p.m. **REP. ERICKSON**

4:13 p.m. **Larry Mitchell**

4:14 p.m. **REP. MAEDJE**

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN CINDY YOUNKIN**, on February 10, 2003 at 3:13 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Cindy Younkin, Chairman (R)
Rep. Gail Gutsche, Vice Chairman (D)
Rep. Jim Peterson, Vice Chairman (R)
Rep. Debby Barrett (R)
Rep. Larry Cyr (D)
Rep. Sue Dickenson (D)
Rep. Ron Erickson (D)
Rep. George Everett (R)
Rep. Kim Gillan (D)
Rep. Christopher Harris (D)
Rep. Carol Lambert (R)
Rep. Michael Lange (R)
Rep. Rick Maedje (R)
Rep. Bruce Malcolm (R)
Rep. Brad Newman (D)
Rep. John (Jack) W. Ross (R)
Rep. Scott Sales (R)
Rep. Veronica Small-Eastman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Kathleen Ely, Committee Secretary
Larry Mitchell, Legislative Branch

Video-taped Committee: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A video-taped recording of the meeting is available from the Montana Historical Society. THE TIME STAMP REPRESENTS ELAPSED TIME.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

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Rep. Carol Lambert (R)
Rep. Michael Lange (R)
Rep. Rick Maedje (R)
Rep. Bruce Malcolm (R)
Rep. Brad Newman (D)
Rep. John (Jack) W. Ross (R)
Rep. Scott Sales (R)
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Members Excused: None.

Members Absent: None.

Staff Present: Kathleen Ely, Committee Secretary
Larry Mitchell, Legislative Branch

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Committee Business Summary:
Hearing & Date Posted: HB 432, 1/27/2003; HB 433, 1/27/2003
Executive Action: HB 144, DO PASS AS AMENDED, 18-0
HB 368, DO PASS AS AMENDED, 18-0
HB 328, TABLED, 10-8
HB 428, DO PASS, 18-0, CC

HEARING ON HB 433, HB 432

Opening Statement by Sponsor:
00:00 **REP. CLARK, HD 72 -- HB 433, Short Title:** Revise metal mine reclamation bonding requirements
16:00 **HB 432, Short Title:** Revise metal mine reclamation laws
EXHIBIT(nah29a01)

Proponents' Testimony:
29:00 Matt Clifford, Attorney, Clark Fork Coalition
24:00 Don Orso, Noxon
25:00 Don Judge, Sierra Club (HB 432)
28:00 Jeri Orso, Noxon
30:00 Jon Krutar, The Blackfoot Legacy
36:00 Jeff Barber, Montana Environmental Information Center
40:00 John Wilson, Trout Unlimited
41:00 Cody Ferguson, Northern Plains Resource Council
EXHIBIT(nah29a02)
43:00 Steve Welch, Department of Environmental Quality (HB 433)

Opponents' Testimony:
44:00 Angela Janacaro, Montana Mining Association
52:00 Don Allen, Western Environmental Trade Association

Informational Testimony: None.

Questions from Committee Members and Responses:
53:00

Closing by Sponsor:
1:13:00

4:33 Break
4:40 Resume

EXECUTIVE ACTION ON HB 144

Motion: **REP. HARRIS** moved that **HB 144 DO PASS**.

Motion: **REP. HARRIS** moved that **HB 144 BE AMENDED.**
EXHIBIT**(nah29a03)**

Discussion:
1:32:00

Vote: Motion that **HB 144 BE AMENDED carried 17-1 with BARRETT voting no** by voice vote.

Motion: **REP. HARRIS** moved that **HB 144 BE AMENDED.**
EXHIBIT**(nah29a04)**

Discussion:
1:34:00

Motion: **REP. MAEDJE** moved **to segregate 9, 10, and 11 the Amendments (HB014404.alm) of HB 144.**

Motion/Vote: **REP. YOUNKIN** moved that **Sections 5, 6, 8 and 12 of the Amendments (HB014404.alm) HB 144 BE AMENDED. Motion carried unanimously** by voice vote.

Discussion:
1:41:00

Motion: **REP. HARRIS** withdrew his Amendment

Motion/Vote: **REP. MAEDJE** moved that **HB 144 BE AMENDED. Motion carried unanimously** by voice vote.
EXHIBIT**(nah29a05)**

Vote: Motion that **HB 144 DO PASS AS AMENDED carried unanimously** by voice vote.

EXECUTIVE ACTION ON HB 368

Motion: **REP. PETERSON** moved that **HB 368 DO PASS.**

Motion/Vote: **REP. YOUNKIN** moved that **HB 368 BE AMENDED. Motion carried unanimously** by voice vote.
EXHIBIT**(nah29a06)**

Motion/Vote: **REP. PETERSON** moved that **HB 368 DO PASS AS AMENDED. Motion carried unanimously** by voice vote.

Motion/Vote: **REP. HARRIS** moved **HB 368** be recommended to the Speaker of the House to be placed on the Consent Calendar. **Motion carried unanimously** by voice vote.

EXECUTIVE ACTION ON HB 328

Motion: **REP. GUTSCHE** moved that **HB 328 DO PASS**.
EXHIBIT**(nah29a07)**

Motion: **REP. NEWMAN** moved that **HB 328 BE AMENDED**.
EXHIBIT**(nah29a08)**

Vote: Motion that **HB 328 BE AMENDED carried 17-1 with MAEDJE voting no** by voice vote.

Motion: **REP. HARRIS** moved that **HB 328 BE AMENDED**.
EXHIBIT**(nah29a09)**

Discussion:
2:04:00

Vote: Motion that **HB 328 DO PASS AS AMENDED carried 10-8 with BARRETT, EVERETT, LAMBERT, MAEDJE, MALCOLM, PETERSON, ROSS, and YOUNKIN voting no** by roll call vote.

Motion: **REP. HARRIS** moved that **HB 328 DO PASS AS AMENDED**.

Discussion:
2:16:00

Vote: Motion that **HB 328 DO PASS AS AMENDED failed 8-10 with CYR, DICKENSON, ERICKSON, GILLAN, GUTSCHE, HARRIS, NEWMAN, and SMALL-EASTMAN voting aye** by roll call vote.

Vote: **REP. LAMBERT** moved that **the vote HB 328 be reversed and the bill tabled passed 10-8 with CYR, DICKENSON, ERICKSON, GILLAN, GUTSCHE, HARRIS, NEWMAN, and SMALL-EASTMAN voting no** by roll call vote.

MINUTES

MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on March 14, 2003 at 3:14 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bill Tash, Chairman (R)
Sen. Aubyn Curtiss, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Gregory D. Barkus (R)
Sen. Jon Ellingson (D)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Dan McGee (R)
Sen. Gary L. Perry (R)
Sen. Glenn Roush (D)
Sen. Debbie Shea (D)
Sen. Ken Toole (D)

Members Excused: Sen. Bea McCarthy (D)

Members Absent: None.

Staff Present: Krista Lee Evans, Legislative Branch
Roberta Opel, Committee Secretary

Video-taped Committee: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A video-taped recording of the meeting is available from the Montana Historical Society.

Committee Business Summary:

Hearing & Date Posted:	HB 436, HB 368, HB 700 3/14/2003,
Executive Action:	HB 436, HB 368, HB 700, HB 303 HJ 4

HEARING ON HB 436 (2nd hearing)

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses: None

EXECUTIVE ACTION ON HB 436

3:22pm Motion: Motion by **SEN. BILL TASH HB 436 BE CONCURRED IN carried 10-2 with SENATORS JON ELLINGSON and KEN TOOLE voting no.**

HEARING ON HB 368

Opening Statement by Sponsor: REP. RON DEVLIN, HD 3, Terry, presented HB 368 to the committee; revise petroleum tank release compensation board laws.

Proponents' Testimony:

3:25pm Ronna Christman, Petroleum Marketer's and C-Stores
3:31pm Stuart Blondell, Integrated Geoscience
3:32pm Lee Bruner, MT. Petroleum Marketer's Association
3:33pm Gregg Cross, member of Petroleum Tank Release Board
3:36pm Earl Griffith, geologist, Tetra Tech, Inc.

Opponents' Testimony: None

Questions from Committee Members and Responses:

3:37pm Begin
3:41pm End
3 min Elapsed time

Closing by Sponsor:

3:41pm REP. DEVLIN closed the hearing on HB 368.

EXECUTIVE ACTION ON HB 368

Motion/Vote: SEN. AUBYN CURTISS moved **HB 368 BE CONCURRED IN. Motion carried unanimously.**

Unofficial vote tally as initially recorded. For official copy, see the journal.

Bill: HB 368 Date: 3/24/2003 Time: 2:13:21 PM
Vote Sequence Number: 835
Motion: BE CONCURRED IN

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen Harrington, Johnson, Kitzenberg, Laible, Mahlum, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, St Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Mangan, Sprague.
Total 2